

REMARKS

In accordance with the foregoing, claims 10, 11, 12, 16, 22 and 23 have been amended herein, and claims 18-19 have been cancelled. Therefore, after entry of the foregoing claim amendments, claims 10-17 and 22-23 will remain pending and under examination. No new matter is being presented, and approval of the amended claims is respectfully requested.

Rejections under 35 U.S.C. §103(a)

Claims 10-19 and 22-23 stand rejected as being unpatentable over Awad et al. (U.S. 2004/0022177) (hereinafter “Awad”) in view of Tiedemann et al. (U.S. 2007/0206623) (hereinafter “Tiedemann”). The rejections are respectfully traversed and reconsideration is requested. The following is a comparison between embodiments of the present invention and the cited art. It is noted that claims 18-19 are cancelled herein; however, features thereof have been incorporated into various independent claims.

Independent claim 10 is amended to clearly define “a detector which detects information on one of an uplink and downlink set to be prioritized, from request signals received from the terminal apparatus” and that “the uplink or downlink set in the information detected by the detector as being prioritized is determined by the terminal apparatus”. (Support may be found, for example, at Fig. 1 and the corresponding written description).

Awad discloses base stations and user equipment (UE) communicating with each other, where a transmission rate is adjustable based on transmission quality ranges. It is respectfully submitted, however, that Awad fails to teach or suggest the features of amended claim 10, provided above.

Moreover, Tiedemann is cited as disclosing stopping the processing of varying the transmission rate and maintaining the transmission rate if the one of the uplink and downlink set to be prioritized is different from the uplink or downlink subject to variation of the transmission rate by the transmission rate varying unit, wherein the transmission rate varying unit stops data communication in the uplink and downlink in order to execute the processing of varying the

transmission rate. However, it is respectfully submitted that Tiedemann fails to teach or suggest the uplink or downlink set in the information detected by the detector as being prioritized is determined by the terminal apparatus, as recited in amended independent claim 10 for example.

Therefore, it is respectfully submitted that independent claim 10 patentably distinguishes over the cited references, alone or in combination. Claims 11, 12, 16, 22 and 23 recite features substantially similar to those described above with respect to independent claim 10 and, thus, the rejections thereof are overcome for at least the foregoing reasons. The remaining claims are believed to be in an allowable condition at least by virtue of their dependency from allowable independent claims.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 278542003500. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: October 6, 2009

Respectfully submitted,

Electronic Signature: /Michael Stanley/
Michael Stanley
Registration No.: 58,523
MORRISON & FOERSTER LLP
12531 High Bluff Drive, Suite 100
San Diego, California 92130-2040
(858) 314-7795